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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/762,044 | 02/01/2001 | Reinhold Stadler | 49248 | 7928 |
| 26474 | 7590 | 07/21/2004 | EXAMINER | |
| KEIL & WEINKAUF 1350 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036 | | | LEVY, NEIL S | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1616 | |

DATE MAILED: 07/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/762,044 | STADLER ET AL. |
| | Examiner | Art Unit |
| | Neil Levy | 1616 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 April 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,4 -10,12 -19 is/are pending in the application.
- 4a) Of the above claim(s) 4-7 and 12 is/are withdrawn from consideration.
- 5) Claim(s) 13-15/18/19 is/are allowed.
- 6) Claim(s) 13,8,9/18/19/21 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 1,2,4-10 and 12-19 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4-7, 12 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 6.

Claims 1-3, 8, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Saur et al Ca 2178655.

The rejection of record is maintained. The declaration does nothing to change the compositions-they are shown by Saur, although evidently not prepared identically. The declaration did not address the full range of Saur's heat application-110°C (p.7, lines 26-31).

Claims 9, 16, 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The rejection of record is maintained on claim 9, and thus dependent claims.

Claim 9 reads "-optionally additive in a fluidized bed-. It is unclear if the fluidized bed is optional, and if the micropores are optional.

Applicant's arguments filed 4/27/04 have been fully considered but they are not persuasive. Applicants arguments of low heat in the closest prior art, and improved efficacy as applied to wax polymer, per declaration, are crowning but problems persist

see rejection. The declaration did not address higher values, nor any but the elected wax coating. However, the obviousness rejection is overcome.

Claims 13-15, 18, 19 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is 571-272-0619. The examiner can normally be reached on T-F from 7:00a.m to 5:30p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached on 571-272-0887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Levy/tgd

July 13, 2004

NEIL S. LEVY
PRIMARY EXAMINER